

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Onslow County Emergency Communications
Request for Waiver of Section 90.209(b) of the
Commission's Rules
WT Docket 99-87

ORDER

Adopted: November 19, 2012

Released: November 19, 2012

By the Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. Onslow County Emergency Communications (Onslow County or the County) submitted a request for waiver, until May 31, 2014, of the Commission's VHF/UHF narrowbanding deadline, which requires private land mobile radio licensees in the 150-174 MHz and 450- 512 MHz bands to operate using channel bandwidth of no more than 12.5 kHz, or equivalent efficiency, by January 1, 2013. By this Order, we grant the Waiver Request.

II. BACKGROUND

2. Onslow County in conjunction with the City of Jacksonville, North Carolina, (the City) is currently procuring and deploying a new 800-MHz P-25 trunked radio system. The new county-wide system will be operated and managed by Onslow County Emergency Communications and the City of Jacksonville Emergency Communications.

3. Currently the City and a small portion of the County, operate on a joint 800 MHz system. Onslow County EMS is completely on the 800 MHz system, and two police departments and fire departments have some of their personnel using the system. The rest of the County's public safety agencies are operating on a High Band VHF system.

1 See Request for FCC Narrowbanding Deadline Waiver, filed April 23, 2012, by Onslow County Emergency Communications (Waiver Request).

2 See 47 C.F.R. § 90.209(b)(5); see also Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, Third Memorandum Opinion and Order and Third Further Notice of Proposed Rule Making and Order, WT Docket No. 99-87, RM-9332, 19 FCC Rcd 25045 (2004). On April 26, 2012, the Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office of Engineering and Technology waived the January 1, 2013 narrowbanding deadline for 470-512 MHz band frequencies. See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies, Order, WT Docket No. 99-87, 27 FCC Rcd 4213 (WTB/PSHSB/OET 2012).

3 Waiver Request at 1.

4 Id.

4. In 2007, the County began working to expand the 800 MHz system to support all the County's public safety agencies. In 2009, after reviewing an initial proposal, City and County officials determined that the cost and magnitude of the project required it to be put out for competitive bidding.⁵ In November 2011, the County released a Request for Proposals for a turn-key 800 MHz trunked radio system.⁶ On November 8, 2012, the County and the City awarded a contract for the project.⁷

5. The project consists of a five tower site system with redundant control systems and two communication centers. The system will support 42 public safety agencies and approximately 1700 public safety users.⁸ The County anticipates that the project will proceed as follows:

- Complete site acquisition completed and site permitting/development work by April 2013.
- System construction completed by August 2013
- Proof of Performance Testing completed by October 2013
- System Install and cut-over completion by October 31, 2013 with the removal of existing system completed by May 31, 2014.⁹

Upon the completion of the project the County will release some of its current VHF spectrum retaining only that spectrum that it will use for paging purposes.¹⁰

6. On May 10, 2012, the Public Safety and Homeland Security Bureau (Bureau) issued a Public Notice seeking comment on the Waiver Request.¹¹ No party filed comments in support or opposition.

III. DISCUSSION

7. Onslow seeks relief pursuant to Section 1.925 of the Commission's rules, which provides that to obtain a waiver of the Commission's rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest;¹² or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.¹³

⁵ *Id.* at 2.

⁶ *Id.*

⁷ See email, dated November 14, 2012 from Norman Bryson, Director, Onslow Department of Emergency Services to Roberto Mussenden, FCC.

⁸ Waiver Request at 2-3.

⁹ *Id.* at 4.

¹⁰ *Id.*

¹¹ See Public Safety and Homeland Security Bureau Seeks Comment on Requests for Waiver of the January 1, 2013 VHF-UHF Narrowbanding Deadline, *Public Notice*, DA 12-735 (PSHSB 2012).

¹² 47 C.F.R. § 1.925(b)(3)(i).

¹³ 47 C.F.R. § 1.925(b)(3)(ii).

8. Applying this standard to narrowbanding, we stated in the *Narrowbanding Waiver Guidance Notice*, jointly issued by the Wireless Telecommunications Bureau, the Public Safety and Homeland Security Bureau, and the Office of Engineering and Technology, that narrowbanding waiver requests “will be subject to a high level of scrutiny” under the waiver standard.¹⁴ We have also provided recommended guidance on the factors that licensees should address in their requests and have recommended that in addressing these factors, licensees should seek to demonstrate that “(i) they have worked diligently and in good faith to narrowband their systems expeditiously; (ii) their specific circumstances warrant a temporary extension of the deadline; and (iii) the amount of time for which a waiver is requested is no more than is reasonably necessary to complete the narrowbanding process.”¹⁵

9. Based on the record before us, we conclude that the County has presented sufficient facts to meet the standard for grant of the requested waiver. The record shows that the County has been diligently working to transition to a new system since 2007.¹⁶ It is clear from the information provided that the County is pursuing an aggressive schedule designed to allow it to transition its voice operations from the VHF band by October 2013. We find that strict enforcement of the narrowbanding deadline, given the circumstances, would delay the County’s transition to the 800 MHz band which would delay the implementation of the county-wide interoperable system, and delay the relinquishment of unused VHF spectrum, none of which is in the public interest.¹⁷ While we grant the County additional time beyond October 2013 to decommission its existing system, we anticipate the County will do so as expeditiously as possible.

IV. CONCLUSION

10. Based on the foregoing, we conclude that grant of the waiver is in the public interest. Accordingly, we grant a waiver of the Commission’s January 1, 2013 VHF/UHF narrowbanding deadline for the agencies and call signs listed in Appendix A, until May 31, 2014.

V. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925(b)(3)(i) of the Commission’s rules, 47 C.F.R. § 1.925(b)(3)(i), that the Request for Waiver filed by Onslow County Emergency Communications IS GRANTED.

¹⁴ Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and Office Of Engineering and Technology Provide Reminder of January 1, 2013 Deadline for Transition to Narrowband Operations in the 150-174 MHz and 421-512 MHz Bands and Guidance for Submission of Requests for Waiver and Other Matters, *Public Notice*, 26 FCC Rcd 9647 (2011) (*Narrowbanding Waiver Guidance Notice*).

¹⁵ *Id.* at 9649.

¹⁶ *See* Waiver Request at 2.

¹⁷ *Id.* at 4.

12. We take this action under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Zenji Nakazawa
Deputy Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

Appendix A: List of Affected Call Signs

Licensee	FRN	Call Signs	Frequency (MHz)
Onslow,County of	0001917434	KG4703, WSL811	155.880
Onslow,County of	0001917434	WQDC741, WQDC967, WDQC974, WQDD267, WQDD272, WQDD280	155.280, 155.340
Nine Mile Rescue Squad	0001917434	WRG591	155.280, 155.340
Onslow,County of	0006269963	KCP538	154.815, 155.115, 155.250, 155.565, 155.880, 155.970, 158.970
Onslow,County of	0006269963	KDK733, KVF701, KVJ624, KWF815, KZR421, WNFH670, WPVU263, WPVU264, WPVU309, WPVU311, WPVU312, WPVU313, WPVU314, WPVU315, WPVU317, WPVU345, WPVU346, WPVU347, WPVU913, WPVU914, WPVU915, WPVU916, WPVU918, WPVU919, WRG908	155.880
Onslow,County of	0006269963	KIN418	154.710, 154.830, 154.875, 155.190, 155.250, 155.490, 155.565, 155.970, 158.970
Onslow,County of	0006269963	WNEB543	154.280, 154.385
Onslow,County of	0006269963	WNEC790	153.905, 159.015
Onslow,County of	0006269963	WPCI686	151.235, 155.160, 155.280, 155.340, 155.400
Onslow,County of	0006269963	WPKS323	151.370, 159.300
Onslow,County of	0006269963	WPKZ801	153.980, 158.820
Onslow,County of	0006269963	WPTS210	154.280
Onslow,County of	0006269963	WQDC980	155.250
Onslow,County of	0006269963	WSL836	155.280, 155.340
Onslow,County of	0006269963	WXK595	155.085
The Town of North Topsail Beach	0001913573	WNUY382	154.830, 155.730
Jacksonville, City of,	0001913573	KNGV211	155.955
Jacksonville, City of,	0001913573	WNFJ226	155.835
Jacksonville, City of,	0001913573	WNZQ802	155.805
Jacksonville, City of,	0001913573	WPNT851	154.47875